
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Leda Dunn Wettre
:
v. : Mag. No. 21-13426
:
KENT ENCARNACION : CRIMINAL COMPLAINT


I, Postal Inspector Justyna Ramotowski, being duly sworn, state that the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Postal Inspector with the United States Postal Inspection Service and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached pages and made a part hereof.



Postal Inspector Justyna Ramotowski
United States Postal Inspection Service

Postal Inspector Justyna Ramotowski attested to this Complaint by telephone pursuant to Federal Rule of Criminal Procedure 4.1(b)(2)(A) on December 13, 2021 in New Jersey.

December 13, 2021 at
Newark, New Jersey

HONORABLE LEDA DUNN WETTRE
UNITED STATES MAGISTRATE JUDGE

Hon. Leda Dunn Wettre
Signature of Judicial Officer

ATTACHMENT A

Count One
(Bank Fraud)

On or about approximately March 18, 2021, in Middlesex County, in the District of New Jersey and elsewhere, defendant

KENT ENCARNACION

did knowingly and intentionally execute and attempt to execute a scheme and artifice to defraud one or more financial institutions, as defined by 18 U.S.C. § 20, to wit: Lender 1, the deposits of which were insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, and credits owned by and under the control of such financial institution by means of materially false and fraudulent pretenses, representations, and promises.

Count	Approximate Date	Description
1	March 18, 2021	ENCARNACION submitted a fraudulent loan application for Paycheck Protection Program ("PPP") funds on behalf of Dream Works Logistics LLC to Lender 1 and obtained approximately \$156,442 in PPP funds.

In violation of Title 18, United States Code, Sections 1344(2) and 2.

Counts Two and Three
(Money Laundering)

On or about the dates set forth below, in the District of New Jersey and elsewhere, defendant

KENT ENCARNACION

did knowingly engage and attempt to engage in a monetary transaction by, through, and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a greater value than \$10,000, that is, the transfer of U.S. currency from bank accounts to the other bank accounts, cash withdrawals, foreign bank transfers (defined in Attachment B), such property having been derived from a specified unlawful activity, that is, wire fraud in violation of Title 18, United States Code, Section 1343, and bank fraud, in violation of Title 18, United States Code, Section 1344.

Count	Approximate Date	Description of Monetary Transaction
2	May 6, 2021	Withdrawal from a Dream Works Logistics LLC bank account at Bank 1 in the amount of approximately \$46,000 to purchase a cashier's check that was negotiated at Bank 2.
3	May 6, 2021	Withdrawal from a Dream Works Logistics LLC bank account at Bank 1 in the amount of approximately \$38,000 to purchase a cashier's check that was negotiated at Bank 3.

In violation of Title 18, United States Code, Sections 1957 and 2.

ATTACHMENT B

I, Justyna Ramotowski, a Postal Inspector with the United States Postal Inspection Service, having conducted an investigation and having discussed this matter with other law enforcement officers who have participated in this investigation, have knowledge of the following facts. Because this Complaint is being submitted for the limited purpose of establishing probable cause, I have not included each and every fact known to me concerning this investigation. Rather, I have set forth only the facts that I believe are necessary to establish probable cause. Unless specifically indicated, all dates described in this affidavit are approximate and all statements or representations described in this affidavit are related in substance and in part.

Overview

1. On or about March 18, 2021, defendant KENT ENCARNACION ("ENCARNACION") used a variety of false statements and representations to fraudulently obtain approximately \$156,442 in federal COVID-19 emergency relief loans meant for distressed small businesses. To obtain the loans, ENCARNACION submitted a falsified loan application on behalf of ENCARNACION's purported business. On the loan application, ENCARNACION falsified various types of information associated with his purported business, including: the number of employees; the names of employees; payroll records; and federal tax documents. ENCARNACION then misused the loan proceeds, including by transferring the money to his personal account and to the business of a known associate.

Background

The Paycheck Protection Program

2. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted in or about March 2020 and designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program ("PPP"). In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

3. In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires the business—through its authorized representative—to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business must state, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures are used to calculate the amount of money

the small business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation showing their payroll expenses.

4. A PPP loan application must be processed by a participating lender. If a PPP loan application is approved, the participating lender funds the PPP loan using its own money, which is 100% guaranteed by the SBA. Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, is transmitted by the lender to the SBA in the course of processing the loan.

5. PPP loan proceeds must be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

The Defendant and Relevant Entities

6. At all times as relevant to this Complaint:

- a. ENCARNACION was a resident of Perth Amboy, New Jersey and the sole owner or “member/manager” of Dream Works Logistics, LLC (“Dream Works”), a company which purported to be a New Jersey limited liability company in the wholesale and logistics agency and an entity through which ENCARNACION fraudulently applied for PPP loan funds.
- b. Company 1 was purported to be a New Jersey limited liability company providing consulting services. A known associate of ENCARNACION was identified as a member of the company.
- c. Lender 1 was a financial institution insured by the Federal Deposit Insurance Corporation (“FDIC”) headquartered in Boston, Massachusetts.
- d. Bank 1 was a financial institution insured by the FDIC headquartered in Boston, Massachusetts.
- e. Bank 2 was a financial institution insured by the FDIC headquartered in New York, New York.

- f. Bank 3 was a financial institution insured by the FDIC headquartered in Cherry Hill, New Jersey.

March 18, 2021 Falsified Dream Works PPP Application to Lender 1

7. On or about March 18, 2021, ENCARNACION submitted, or caused to be submitted, a fraudulent loan application to Lender 1, an approved PPP lender, in order to fraudulently obtain funds through the PPP program. Specifically, Lender 1 received a PPP application in the name of Dream Works seeking a PPP loan in the amount of approximately \$156,422. The application was submitted in ENCARNACION'S name and listed his social security number. In addition, the application listed ENCARNACION as the 100% owner of Dream Works, his home address in Perth Amboy, New Jersey, and a telephone number associated with ENCARNACION.

8. The PPP application submitted to Lender 1 stated that Dream Works's average monthly payroll was approximately \$62,577 and that the company had 114 employees. In connection with the company's purported payroll numbers, the PPP application included a payroll summary for February through March 2020, an annual Transmittal of Wage and Tax Statements (IRS Form W3) for 2019, and a Schedule C (IRS Form 1040) Profit or Loss From Business for 2019.

9. The Dream Works application to Lender 1 contained the following materially false and fraudulent information:

- a. The purported 2019 Form W3 claimed that Dream Works had paid employees approximately \$712,815.58 for 2019 and withheld approximately \$42,820.24 in federal income tax. In addition, the Dream Works, Form 1040, Schedule C for 2019 claimed purported wages in the amount of approximately \$712,815.58. The purported 2019 Form W3 also stated that Dream Works issued 2019 IRS Form W2 to 114 employees.
- b. Information obtained from the Social Security Administration ("SSA") revealed that Dream Works reported no wages paid for the period between 2018 and 2020. No Forms W-3, Transmittal or Wage and Tax Statements, nor Forms W-2, Wage and Tax Statements, were received by the SSA. Likewise, a review of information obtained from the Internal Revenue Service ("IRS") revealed that no Forms 941 were filed by Dream Works for the 2019 tax year as represented on the 2019 IRS Form W-3, Transmittal of Wage and Tax Statements. IRS records also revealed that ENCARNACION did not file a Schedule C with his filed 2019 IRS Form 1040.

10. Bank records show that the Dream Works bank account at Bank 1 (the "Dream Works Account") was opened on or about March 8, 2021, that ENCARNACION was the authorized signatory on the account, and that on or about March 29, 2021, the full loan amount of approximately \$156,442 was transferred into the Dream Works Account.

11. Prior to the deposit of \$156,442 from the PPP loan on March 29, 2021, the Dream Works Account had a balance of approximately \$5,000.

12. From March 29, 2021 through May 5, 2021, the Dream Works Account had debits of approximately \$4,639, consisting of cash withdrawals, and credits of approximately \$4,639, consisting of credit corrections or refunds.

13. On or about May 6, 2021, the balance in the Dream Works Account had an account balance of \$161,442, representing the same amount that it had in the account on March 29, 2021 following the receipt of the PPP loan proceeds.

14. On or about May 6, 2021, ENCARNACION withdrew approximately \$46,000 from the Dream Works Account to purchase a cashier's check payable to ENCARNACION, which was subsequently deposited into another bank account in ENCARNACION'S name at Bank 2.

15. On or about May 6, 2021, ENCARNACION also withdrew approximately \$38,000 from the Dream Works Account to purchase a cashier's check payable to Company 1, which was subsequently deposited into a Company 1 bank account at Bank 2.

16. Following the withdrawals for ENCARNACION'S bank account at Bank 2 and the Company 1 bank account at Bank 3, the balance in the Dream Works Account was approximately \$77,442.